REMARKS

The claims have been amended to more clearly define the invention as disclosed in the written description. In particular, the claims have been amended for clarity.

The Examiner has rejected claims 1-3 (and arguably claims 4-8) under 35 U.S.C. 102(b) as being anticipated by U.S, Patent 5,568,765 to Andoh et al.

The Andoh et al. patent discloses a microwave fryer, in which a frying container is arranged to carry foodstuff to be fried, and a vessel carrying cooking oil is heated and at the cooking temperature, the oil-carrying vessel is raised such that the foodstuff in the frying container is immersed in the cooking oil. At the end of a predefined period of time, the oil-carrying vessel is lowered thereby removing the foodstuff from the cooking oil, and the cooking process is ended.

As noted in MPEP §2131, it is well-founded that "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Claim 1 includes the limitation "wherein, prior to generating the food lowering command signal, the control system,

while the heating element is active, generates a human perceptible signal representing a warning that the food is to be loaded into the cooking basket in response to the temperature signal representing a first predetermined sensed temperature of the cooking medium below said upper limit value, said control system generating the food lowering command signal for lowering the food in the cooking medium in response to the temperature signal representing a second predetermined sensed temperature of the cooking medium below said upper limit value but greater than said first predetermined sensed temperature".

The Examiner has indicated that Andoh teaches "Fig 12 shows the operation of the lowering and control system. The heating element is activated and a lowering signal based on T1 is send to activate the drive motor to lower the food. A second signal based on the steepness of a temperature rise over time S213 is sent for lowering food. Fig 19 shows the upper limit of the sensed temperature which would be reached if no food is present."

Applicants believe that the Examiner is mistaken. In particular, while Andoh et al. alludes to the steepness of a temperature rise over time, this is in relation to determining whether, during lifting of the cooking medium vessel from a storing position to an intermediary position, the temperature sensor goes from being in air and immersed in the cooking medium. As described in Andoh et al., at col. 21, lines 13-51, this steepness in the temperature rise is due to the sensor first being in a non-immersed state and then being in an immersed state. However, Andoh et al.

neither discloses nor suggests the steepness of a temperature rise over time of the temperature of the cooking medium. Further, the steepness in the temperature rise of Andoh et al. is being used to determine the quantity of cooking oil. As indicated by Andoh et al. at col. 22, lines 25-30, after the quantity of cooking oil is determined to be acceptable, "the apparatus continues to heat the oil with a restored normal power until the oil reaches the designated temperature." Hence, there is no lowering signal generated by the Andoh et al. apparatus based on the steepness of a temperature rise over time.

Applicants further submit that there is no disclosure or suggestion in Andoh et al. of the claim limitation "the control system, while the heating element is active, generates a human perceptible signal representing a warning that the food is to be loaded into the cooking basket in response to the temperature signal representing a first predetermined sensed temperature of the cooking medium below said upper limit value". Applicants would like to note that this human perceptible signal is different from the food lowering command signal in that it alerts the user to load food into the food basket because the food lowering command signal is imminent.

Further, there is no disclosure or suggestion in Andoh et al. of the Examiner's statement "Fig 19 shows the upper limit of the sensed temperature which would be reached if no food is present." Rather, Fig. 19 only shows the oil temperatures at various times with differing amount of foodstuffs. There is no

disclosure or suggestion in Andoh et al. of "the upper limit value of the sensed temperature would be reached if no food is lowered into the cooking medium."

In addition, the limitation in the claim is referring to when the one of the human perceptible signal and the food lowering command signal is generated, i.e., it may be a generated a predetermined amount of time prior to "the upper limit value of the sensed temperature would be reached if no food is lowered into the cooking medium", and as such, the sensed temperature would be dependent on the steepness of the temperature rise time of the sensed temperature of the cooking medium.

Claim 3 states "The deep fat fryer as claimed in claim 1, wherein said deep fat fryer further comprises a user interface operatively connected to the control system for setting a boost condition wherein, in said boost condition, said upper limit value of the sensed temperature and said second predetermined sensed temperature below said upper limit value are temporarily increased."

The Examiner has indicated that Andoh et al. teaches this limitation at col. 16, lines 45-64.

Applicants submit that the Examiner is mistaken. In particular, Andoh et al. states:

> "FIG. 4 is an electric block diagram showing a more detailed configuration of the illustrative block diagram already described in FIG. 3. A control panel 20 has a key for setting up a temperature of oil, a key for setting up a frying time, a key for setting up a sort of foodstuffs to be fried, a start key etc. Signals corresponding to operations of the above keys

> are supplied to an interface 21. Output from the oil-temperature sensor 9 is supplied to the interface 21 via an AiD converter 22 while a signal from the micro switch 14 which detects the bottom dead point of the table supporting shaft is directly supplied to the interface 21. The interface 21 is connected to a processing circuit 23 embodied with a microcomputer and the like. That is, the processing circuit 23 is composed of a CPU 24, a ROM 25, a RAM 26 and thc like to govern the control of the whole fryer. Output from the interface 21 is supplied to a switching transistor which is connected in series with a relay coil to thereby effect switching operations of a switch 28 for drive controlling and another switch 29 for controlling a driver motor 13."

Applicants submit that it should be apparent from the above that there is no provision in Andoh et al. for setting a temporarily raised upper limit value and second predetermined sensed temperature in order to effect a "boost condition" as specifically set forth in claim 3.

In view of the above, Applicants believe that the subject invention, as claimed, is neither anticipated nor rendered obvious by the prior art, and as such, is patentable thereover.

Applicants believe that this application, containing claims 1-8, is now in condition for allowance and such action is respectfully requested.

Respectfully submitted,

by__/Edward W. Goodman/_____
Edward W. Goodman, Reg. 28,613
Attorney
Tel.: 914-333-9611